

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/10/2009 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant amended the claims from powdery composition to powdery calcic composition, which complies with formula (I) and contains flow agent. However, there is no such description in the specification. The specification discloses a powdery mixture, which comprises of calcic compound and flow agent.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The applicant amended the claims to a powdery calcic compound complying with the formula (I) and the compound contains a flow agent. The flow agent has a size of larger than 90 micron. Claim 1 further defines that the compound has a size of less than 250 micron. From the limitation of claim 1, the calcic compound is a composite. Claim 10 defines the calcic compound has a size of less than 20 micron. If the calcic compound is a composite, how could be the compound size of less than 20 since the flow agent has a size of larger than 90 micron.

Claim 5 defines that the flow agent is attapulgite. The Examiner respectfully submits that claim 1 define that flow agent can only be vermiculite, perlite, diatomaceous earth and silica. Please clarify.

Response to Arguments

Applicant's arguments see page 6, filed 11/10/2009, with respect to JP09268012 about silica with a size or density similar to limestone have been fully considered and are persuasive. The rejection of claim 1-4 and 9-10 has been withdrawn. Furthermore JP 09268012 fails to disclose a calcic composite.

Applicant's arguments see page 8, filed 11/10/2009, with respect to U. S. 4, 787,759 to Smith, U. S. 2003/0138614 to Leelercq, U.S. 4, 051, 056 to Hartman and

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combined teaching of US. 2003/0138614 to Leelercq and U.S. 5, 340, 558 to Friedman has been withdrawn since they fail to disclose a calcic composite, which has a size of less than 250 micron.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHUANGYI ABU ALI whose telephone number is (571)272-6453. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J.A. LORENZO/

Supervisory Patent Examiner, Art Unit 1793

/Shuangyi Abu-Ali/

Examiner, Art Unit 1793